

**APPLIES TO SINS IF LEASING OR RENTAL TERMS ARE OFFERED**

When offering Leasing or Rental terms in response to the solicitation for Multiple Award Schedule (MAS) 78, Sports, Promotional, Outdoor, Recreation, Trophies and Signs (SPORTS), such terms should be offered under the Introduction of New Products/Services (INP/S) Special Item Number (SIN) for the Product/Service for which you are applying. If there is a discrepancy with information provided elsewhere in this solicitation, please notify Monica Gormley at [monica.gormley@gsa.gov](mailto:monica.gormley@gsa.gov).

The Government will not acquire title to any leased or rented product during the lease/rental term. The product will be leased for the life of the leasing arrangement as specified in the delivery order. The initial term of the leasing agreement is from the date of acceptance of the product through September 30 of the fiscal year in which the order is placed, unless the ordering office has funding which exceeds a Government fiscal year. Leases executed shall be on the basis that the known requirements exceed the initial leasing term of twelve (12) months, or the remainder of the fiscal year. Renewal of a lease will be subject to availability of funding. The Government has the option to renew each year at the original lease monthly charge in effect at the time the leasing order is placed. If the Government exercises its option to renew the leasing order, as renewed, it shall include an option to renew (1) until the expiration of the leasing agreement, or (2) the product is purchased by the agency. Prior to the placement of an order under this attachment, the Government ordering office and the contractor must agree on the following:

**Base Value:** For Lease to Ownership, the base value will be the contract purchase price less any discounts. This will include the schedule price plus any agreed upon amounts under Ancillary Services, or Installation Site Preparation. For Lease With Option to Purchase, the base value will be the agreed upon purchase price, less the residual value for the products.

**Residual Value:** The residual value will be used in the calculation of the original lease payment, lease extension payments and the purchase option price but is not used in Lease to Ownership (Capital Lease) calculations.

**Lease Rate:** The Government contemplates negotiation of the lease rate using a defined spread over a risk free rate (such as a T-Note or T-Bill). Other methods may be proposed by the offeror and will be considered if advantageous to the Government. The lease rate will be negotiated between the Contractor and the Government prior to the award of this SIN.

The ordering agency will determine the amount of lease payments by utilizing the aforementioned variables via a programmed business calculator or by using commercial "rate" functions.

A product leased under this agreement may be terminated at any time during the fiscal year but the product shall remain the property of the Contractor during the lease term. The Government shall have no right or interest in the product, except as provided in the leasing agreement, and shall hold the leased/rented product subject, and subordinate to, the rights of the Contractor.

Below is a list of options available under this attachment. The Contractor is to signify which of these are being offered, though other lease options may be proposed and accepted if determined in the best interests of the Government.

- ☐ LEASE TO OWNERSHIP (CAPITAL)
- ☐ LEASE WITH OPTION TO PURCHASE (OPERATING)
- ☐ RENTAL (SHORT-TERM LEASE)

The Government reserves the right to consider any additional leasing methodology utilized by the commercial marketplace. Such methodology may be accepted if it is determined to be in the best interest of the Government.

## **1. STATEMENT**

- a. Agencies are advised to follow the guidance provided in Federal Acquisition Regulation (FAR) Subpart 7.4 Equipment Lease or Purchase, and the guidelines provided in Federal Property Management Regulations (FPMR) 101-25.5 Guidelines for Making Purchase or Lease Determinations, in determining whether products should be acquired by purchase or lease.

- b. All products offered for lease shall be new and unused unless otherwise agreed upon by the ordering office. Only products accepted under the purchased Special Item Numbers (SINs) can be provided under the leasing program.

## **2. LEASING/RENTAL OPTIONS**

The Government will consider proposals for leasing/rental options, which the Contractor believes, will have application in the Government. Only those vendor proposed options which are considered to represent good value would be accepted. The below options are suggested, though others may be considered if determined in the best interest of the Government.

- a. Lease to Ownership (Capital Lease)
- b. Lease with Option to Purchase (Operating Lease)
- c. Rental (Short-Term Lease) – rental for daily (8 hours), weekly (40 hours), and monthly (160 hours) terms

## **3. ORDERS AND PERIODS OF LEASING ARRANGEMENTS**

- a. Orders placing products under a leasing arrangement must specify the applicable leasing option under which the products are being leased.
- b. Annual Funding. When annually appropriated funds are cited on an order for lease/rental, the following applies:
  - (1) Unless the ordering agency has funding which exceeds a Government fiscal year, the initial term of the leasing agreement is from the date of the product acceptance through September 30 of the fiscal year in which the order is placed. Any lease or rental executed by the Government shall be on the basis that the known requirements exceed the initial leasing term of twelve (12) months, or the remainder of the fiscal year. Due to funding constraints, however, the Government cannot normally commit to a longer term at the commencement of the lease/rental. All orders for leasing or rental shall remain in effect through September 30 of the fiscal year or the planned expiration date of the lease/rental, whichever is earlier, unless the Government exercises its rights here under to acquire title to the product prior to the planned expiration date. Orders under the lease/rental shall not be deemed to obligate succeeding fiscal year's funds or to otherwise commit the Government to a renewal.
  - (2) All orders for leasing automatically terminate on September 30 of the contract term unless the Government exercises its option to renew by written notice. The Government has the option to renew each year at the original lease monthly charge in effect at the time the leasing order is placed, until the completion of the leasing agreement. If the Government exercises its option to renew, the leasing order, as renewed, shall include an option to renew until the expiration of the leasing agreement.
  - (3) Ordering offices should notify the Contractor in writing thirty (30) calendar days prior to the expiration of leasing orders as to the Government's intent to renew. Such notice to renew shall not bind the Government.
- c. Cross-year Funding within Contract Period. Where an ordering office's specific appropriation authority provides for funds in excess of a 12 month (fiscal year) period, the ordering office may place an order for leasing under this schedule contract for a period up to the expiration of the contract period, notwithstanding the intervening fiscal years.
- d. In recognition of the types of products on Schedule 539 and the potential adverse impact to the Government's mission, the Government's quiet and peaceful possession and unrestricted use of the products shall not be disturbed, so long as the Government is not in default. Any assignment, sale, bankruptcy, or other transfer of the leased products by the Contractor will not relieve the Contractor of its obligations to the Government, and will not change the Government's duties or increase the burdens or risks imposed on the Government.
- e. GSAM 552.232-23 Assignment of Claims is incorporated herein by reference.

## **4. INSTALLATION**

Services under Special Item Numbers (SIN) for Ancillary Services or Installation and Site Preparation are inclusive of the product and therefore may be included in the base value for determination of the lease/rental payment.

## 5. MAINTENANCE

Maintenance is not included in the charge for leasing although the Government may obtain maintenance services from the Contractor or other sources.

If maintenance is ordered from the contractor who provides the lease, the ordering agency shall award maintenance as a separate and severable line item.

## 6. MONTHLY PAYMENTS

Prior to the placement of an order under this Attachment, the Government ordering office and the Contractor must agree on a "base value" for the products to be leased or rented. For Lease to Ownership (Capital Lease) the base value will be the contract purchase price (less any discounts). For Lease with Option to Own (Operating Lease), the base value will be the contract purchase price (less any discounts), less a mutually agreed upon residual value for the products. The residual value will be used in the calculation of the original lease payment, lease extension payments, and the purchase option price.

- a. To determine the initial lease term payment, the Contractor agrees to apply the negotiated lease factor to the agreed upon base value.

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For Example: Lease factor one (1) percent over the rate for the three year (or other term) Treasury Bill (T-Bill) at the most current U.S. Treasury auction. The lease payment may be calculated by using a programmed business calculator or by using "rate" functions provided in commercial computer spreadsheets (e.g., Lotus 1-2-3, Excel).

- b. For any lease extension, the extension lease payment will be based on the original residual value, in lieu of the purchase price. The ordering agency and the Contractor shall agree on a new residual value based on the estimated fair market price at the end of the extension. The formula to determine the lease payment will be that in 6.a. above.
- c. The purchase option price will be the fair market value of the product. The fair market value will not exceed the Base Value principal not paid, plus the residual value, plus the Financial Cost for the Residual Value. (Reference the Title Acquisition Explanation below)
- d. Rental (short-term lease) payments shall be priced up front in the basic contract. Rental prices offered shall be based upon the vendor's normal commercial business practices.

In the event the Government desires, at any time, to acquire title to products leased hereunder, the Government may make a one-time lump sum payment. Upon request by the Government, the Contractor will provide a quotation of the lump sum payment amount, in accordance with the following Title Acquisition Explanation; such quotation shall be effective only if the order is received by the Contractor during the month of the applicable quotation.

**TITLE ACQUISITION EXPLANATION** -The buyout cost to take ownership of a leased or rented product is the present value of the payments remaining, calculated from the date of ownership transfer to end of term, plus the present value of the residual value. The interest rate for calculating the present value will be the same rate used as the basis of the rent agreement. This may be calculated by using a programmed business calculator or by using "rate" functions provided in commercial computer spreadsheets (e.g., Lotus 1-2-3, Excel).

## 7. ADDITIONAL PAYMENT TERMS

The contractor shall be paid in accordance with the procedures of the Prompt Payment Act, Public Law 97-177 (96 Stat 85 31 USC 1801), which requires the submission of proper invoices. Any credits due to the government may be applied against the contractor's invoice with the appropriate information attached. Payment for less than one month shall be prorated at 1/30th of the monthly rate for each calendar day.

Payment under this leasing provision shall be due on the 30th calendar day after the date of receipt of a proper invoice in the government office designated to receive invoices. Date of receipt shall be the last day of the month in which the invoice is received.

## 8. LEASE END/DISCONTINUANCE OPTIONS

Upon written notice, at least thirty (30) days prior to expiration of the lease/rental term, and provided the Government is not in default, the Government may:

- a. Exercise the purchase option set forth in the lease (6.c above);
- b. Exercise the option to extend the lease term (6 b above);
- c. Allow the Contractor to resume possession of the product or return the product to the Contractor after expiration of the lease term, pursuant to the instructions in paragraph 18.

## **9. REASSIGNMENT OF LEASES AND OPTIONS**

If a government activity enters into any lease/rental agreement, such agreement may be reassigned to another government activity. The assignee shall succeed to all rights vested with government, including buyout or purchase option. The lease/rental program is not intended to cover the cost of any movement or reconfiguration required as a result of a reassignment of lease/rental agreements. Any cost for movement or reconfiguration occasioned by reassignment shall be negotiated on a case-by-case basis between the ordering agency and the contractor, outside the scope of this contract.

## **10. UPGRADES AND ADDITIONS**

- a. The Government may affix or install any accessory, addition, upgrade, structure or device on the products provided that such items:
  - (1) can be removed without causing material damage to the products;
  - (2) do not reduce the value of the products; and
  - (3) are obtained from or approved by the Contractor, and are not subject to the interest of any third party other than the Contractor.
- b. Any other additions may not be installed without the Contractor's prior written consent.
- c. At the end of the lease/rental term, the Government shall remove any additions which:
  - (1) were not leased from the Contractor, and
  - (2) are readily removable without causing material damage or impairment of the intended function, use, or value of the products, and restore the products to their original configuration.
- d. Any Additions, which are not so removable, will become the Contractor's property (lien free).

## **11. RISK OF LOSS OR DAMAGE**

The Government is relieved from all risk of loss or damage to the products during periods of transportation, installation, and during the entire time the products are in possession of the Government, except when loss or damage is due to the fault or negligence of the Government. The Government shall assume risk of loss or damage to the products during relocation unless the Contractor shall undertake such relocation.

## **12. LIABILITY AND INSURANCE**

The contractor is required to provide all bonds and insurance.

## **13. WARRANTY**

The contractor is required to meet all warranty and guarantee clauses.

## **14. TITLE DURING LEASE/RENTAL**

Products shall remain the property of the Contractor during the lease/rental term. The Government shall have no right or interest in the products except as provided in this leasing agreement and shall hold the products subject and subordinate to the rights of the Contractor.

Assignment of title by the contractor for any leased products will not relieve the contractor of any responsibility of the contract.

## **15. TITLE TRANSFER - LEASE WITH OPTION TO PURCHASE (OPERATING LEASE)**

Upon completion of the designated lease term, the contractor shall assign title of the product to the Government.

## **16. TAXES**

See clause 52.229-1, STATE AND LOCAL TAXES.

## **17. DISCONTINUANCE AND TERMINATION**

Notwithstanding the provisions of 3.b (1) and (2), products leased under this agreement may be terminated at any time during a fiscal year in accordance with FAR 52.212-4, paragraph (I) Termination for the Government's convenience.

## **18. RETURN OF PRODUCTS UPON EXPIRATION OF THE LEASE TERM**

Within thirty (30) days after the date of expiration or termination of leasing agreement, the Government shall, at its own risk and expense, have the products packed for shipment in accordance with the Contractor's specifications. Government shall return the product to the Contractor at the Contractor's facility nearest to the Government location, in the same condition as when delivered, ordinary wear and tear excepted.

Upon request by the Government, and at the Government's expense, the Contractor shall assist in the packing of the products so terminated or discontinued. Such services, if required, are outside the scope of the contract.